

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
NOVEMBER 1, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on November 1, 2010, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Bunder, Burch, Dietrich, Hoggatt, Hunt, and Keen.

Absent: Thomas.

Also present were City Attorney Representative Puente, Clerk-Treasurer Rhodes, City Engineer Buck, Police Chief Dombkowski, Street Commissioner Downey, Human Resources Director Foster, WWTU Director Henderson, Fire Inspector Lancaster, Parks Superintendent Payne, and Director of Development Poole.

MINUTES

Councilor Keen moved for acceptance of the minutes of the September 30, 2010, Pre-Council Meeting, and the October 4, 2010, Common Council Meeting. Councilor Burch seconded the motion, and the motion passed *viva voce*.

OFFICER OF THE QUARTER

Police Chief Dombkowski and Police Merit Commission President Leverenz presented the Officer of the Quarter Award to Officer Bill Dearing.

COMMITTEE STANDING REPORTS

STREET, SANITATION, AND WASTEWATER TREATMENT UTILITY

Councilor Bunder presented this report, which is on file in the Clerk-Treasurer's Office.

PUBLIC SAFETY AND ORDINANCE

Councilor Keen presented this report, which is on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS

Councilor Hoggatt had no report.

PARKS AND RECREATION

Councilor Hunt presented this report, which is on file in the Clerk-Treasurer's Office.

ECONOMIC DEVELOPMENT

Councilor Dietrich presented this report, which is on file in the Clerk-Treasurer's Office.

PERSONNEL

Councilor Burch presented this report, which is on file in the Clerk-Treasurer's Office.

BUDGET AND FINANCE

Councilor Dietrich had no report.

REPORT OF APC REPRESENTATIVE

Councilor Keen had no report, but said he would discuss Ordinance No. 27-10 later.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Bunder presented the West Lafayette Beautification Award to Marshall Porterfield of 844 Rose Street.

FINANCIAL REPORT

Clerk-Treasurer Rhodes reported that there was discussion at Pre-Council about property tax caps and their impact on local jurisdictions. The State has recently presented its estimate for Circuit Breaker impact on local jurisdictions for 2011. This year, the City's property tax was reduced by over \$472,000. The estimate for 2011 is 50% higher, over \$708,000. Director of the West Lafayette Public Library Schenkel is aware of this, as the Library is in the same situation as is the City. Although this is on the ballot as a constitutional amendment, Circuit Breaker is in effect and will have a significant impact on the City. The monthly reports required by the State Board of Accounts have been submitted to the Council.

LEGAL REPORT

City Attorney Representative Puente stated that the report is on file.

UNFINISHED BUSINESS

Ordinance No. 26-10 An Ordinance Amending The Procedures Of The City Of West Lafayette Human Relations Commission (Submitted by West Lafayette Human Relations Commission; Sponsored by Mayor Dennis and Councilor Hunt)

Mayor Dennis read Ordinance No. 26-10 by title.

Councilor Keen moved that Ordinance No. 26-10 be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis noted that Human Relations Commission Chairman Shook was present to answer questions.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch		✓		
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen		✓		
Thomas			✓	

Clerk-Treasurer Rhodes stated that the vote was 4 AYE and 2 NAY.

Mayor Dennis announced that Ordinance No. 26-10 passed on final reading.

Ordinance No. 27-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #68, change required auto and bicycle parking standards in WL Village, and change height requirements in the CBW, R3W, and R4W zones) (Submitted by Area Plan Commission) *This ordinance was tabled by action of the Council at the September 30, 2010, Pre-Council meeting until the November 1 Council meeting, to allow for public discussion. At the October 28 Pre-Council meeting, the Council voted to defer the vote on this ordinance until the December 2, 2010, Pre-Council meeting and to take public comment at the November 1 Council meeting.*

Mayor Dennis read Ordinance No. 27-10 by title. This item is for public discussion only at this meeting. The Mayor requested that comments be brief and non-repetitive.

Councilor Hunt and noted that the Council voted to postpone the vote on this ordinance until the December 2, 2010, Pre-Council meeting.

Speaking in opposition to the legislation, all or in part, were Scott Mills, Patti O'Callaghan, Ted Wachs, Laurel Jizba, Tom Kesler, and Jan Myers.

Councilor Hunt commented that from Stadium to Dodge is in her district, and the height permitted by the ordinance would be 65 feet. She stated that she does not want that height in that area; the neighborhoods in that area are very fragile. She would like to keep the single-family homes in that area. If there were 65-foot buildings along the east side of Northwestern Avenue, it would feel like a canyon, with the Mackey Arena expansion on the other side. She stated that she understood the speakers' concerns, and that the vote will be taken at the Pre-Council meeting on December 2.

Councilor Bunder expressed concern about the ordinance because of the changes to the parking requirement. Decrease in parking in the commercial district will push traffic and parking into the nearby neighborhoods. He stated that, if the City or the Redevelopment Commission were planning to fund additional parking structures, now would be a good time to make this public. He added that he is concerned about the elimination of Planned Development zoning, as well as his belief that this ordinance precludes the APC land use study. Councilor Bunder stated that on November 10, there is a meeting at which Attorney Bumbleburg will present a proposal for further development along Northwestern Avenue. The Councilor stated that he considered it questionable practice to initiate a land use plan and to convince people that this is a worthwhile endeavor that could lead to a variety of good things, in terms of the growth of West Lafayette and the conservation of historic properties, only to discover that it might be precluded to the point where there are specific development proposals. He stated that he is opposed to the ordinance.

There was no further discussion.

Mayor Dennis restated that the Council would vote on this ordinance at the December 2, 2010, Pre-Council meeting.

NEW BUSINESS

COMMON COUNCIL MEETING MINUTES, NOVEMBER 1, 2010, CONTINUED

Ordinance No. 28-10 An Ordinance Regulating Open Burning Within The City Of West Lafayette
(Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 28-10 by title.

Councilor Keen moved that Ordinance No. 28-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Hoggatt addressed two issues: The overlap with City Code 67.04, which also restricts burning of leaves; he recommended this redundancy be eliminated. Secondly, he motioned to strike 63.52 (b) (vii) and the following sentence, which is a clarification of that. Mayor Dennis clarified that Purdue University does permit fraternities, sororities, and combined housing units to have fires. Councilor Hoggatt stated that some individual fraternities or sororities might have national chapter rules that restrict fires. The same restrictions as to size, etc. would still apply to these units.

Councilor Keen seconded the motion. The amendment passed unanimously by voice vote.

Councilor Keen moved that Ordinance No. 28-10 (Amended) be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis called for additional discussion on Ordinance No. 28-10 (Amended).

Mayor Dennis stated that the ordinance was drafted by Fire Chief Drew and reviewed by City Attorney Burns. It puts significant restrictions on open burning, but does allow it. Fires must be contained and can only be of a certain size in diameter; further, it restricts any nuisance burning. If a resident is bothered by smoke or the size of a fire and reports it to the Fire Department, the fire must be extinguished, or a citation may be issued. In the event that there is a fire restriction in Tippecanoe County, open burning in West Lafayette also would be prohibited. Fire Chief Drew was not present, but Fire Inspector Lancaster was available for questions.

Councilor Keen reported that he discussed this ordinance with Fire Chief Drew and learned that this ordinance is not a significant departure from the City's long-accepted practices, but it does make it more enforceable.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen	✓			
Thomas			✓	

Clerk-Treasurer Rhodes stated that the vote was 6 AYE and 0 NAY.

Mayor Dennis announced that Ordinance No. 28-10 (Amended) passed on first reading.

Ordinance No. 29-10 An Ordinance Requesting An Additional Appropriation – Rainy Day Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 29-10 by title.

Councilor Keen moved that Ordinance No. 29-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that she was asked to prepare the ordinance to account for expenses incurred as a result of several storm events that resulted in damage to City property. Those expenses have been paid or are pending, subject to insurance deductible. The details have been provided by the department heads involved, Street Superintendent Downey, Parks Superintendent Payne, and, through the Engineering Department, Tim Clark of INTAC. Mr. Clark oversaw coordination of services during the power outage at the Police Department. Mayor Dennis added that that there were significant winds during a thunderstorm, which downed trees and power lines, and did a significant amount of damage to the City. Emergencies such as these are not budgeted, but money in the Rainy Day Fund can be appropriately used to cover these expenses.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen	✓			
Thomas			✓	

Clerk-Treasurer Rhodes stated that the vote was 6 AYE and 0 NAY.

Mayor Dennis announced that Ordinance No. 29-10 passed on first reading.

Resolution No. 13-10 A Resolution Requesting The Transfer Of Funds (Parks Nonreverting Capital – Pool Fund to Parks and Recreation Fund) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 13-10 by title.

Councilor Keen moved that Resolution No. 13-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that the resolution allocates the pool admission fees to the Parks and Recreation Fund. When this strategy was discussed at the end of July with the filing of the budget, the pool season was not completed. Over \$81,000 was received in pool

admissions during the summer, \$80,000 of which would be transferred to the Park Fund. This transfer will help Parks, as Circuit Breaker will impact the Park Fund by 50% more than they had this year.

Councilor Bunder asked for clarification how pool admissions were handled before, and how they will be handled. Clerk-Treasurer Rhodes responded that pool admissions have been deposited into a Parks Non-reverting Capital Pool Fund for a number of years. The balance in that fund is \$401,473, and there are no major pending capital projects for the pool. The budget for the pool for the last several years has been \$44,000, because there are no major projects pending. Other City funds have been used for pool capital projects. While pool admissions have been deposited into Parks Non-reverting Capital Pool Fund, all the operational expenses for the pool have been paid by the Parks and Recreation Fund, which is primarily funded by property taxes. Because property taxes are decreasing by Circuit Breaker, the request was to apply pool admission funds to offset Parks expense for operating the pool for this year and in the 2011 budget. During the coming 6 to 9 months, the Mayor, the Park Board, and the Council will be reviewing the situation, to determine how to fund Parks operations. This transfer will allow enough time for that process of deliberation and input to occur, without jeopardizing the operation of the pool.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen	✓			
Thomas			✓	

Clerk-Treasurer Rhodes stated that the vote was 6 AYE and 0 NAY.

Mayor Dennis announced that Resolution No. 13-10 passed on first and only reading.

COMMUNICATIONS

► Councilor Hunt reminded people that property taxes are due November 10, and that Election Day is tomorrow and City Hall will be closed.

► Councilor Dietrich saluted Kimberly-Clark for eliminating tube rolls from their Scott Naturals brand toilet paper. More than 17 billion tube rolls have been produced each year in the U.S. for toilet paper.

CITIZEN COMMENTS

► Mr. Tom Kessler (479 Maple) stated that some evenings his home is bathed in smoke, due to campfires in backyards. Ordinance No. 28-10 will enclose backyard fires, but will not alleviate the problem that he has with smoke. He said that chimneys were made to thrust smoke higher than ground level campfires, so if fires are to be used, he recommended chimneys rather than

campfires. He is not interested in ground-level fires in very densely populated areas such as New Chauncey Neighborhood.

► Jan Myers (1909 Indian Trail) asked when the public meeting on ADA will be held. Mayor Dennis responded that there is no firm date yet. Ms. Myers asked how much money the City received from timber sales of the removal of the maple trees along North River Road. Mayor Dennis answered that no money was received. She asked if the City was following up on the theft of City property that was worth many thousands of dollars. She said she has been contacted by people who watched the trees be cut into timber logs, and wanted to know if this was a theft or if the City got money. Mayor Dennis said no money was received. Ms. Myers responded that then there was a theft of City assets, and, as a taxpayer, she asked that that be pursued. Mayor Dennis called on Parks Superintendent Payne to address this issue. It is not an uncommon practice. Parks Superintendent Payne said that the Wabash Heritage Trail Extension Project is contracted by INDOT, and the bids are submitted, including the subcontractors clearing the timber, taking into account the value received from the timber. Ms. Myers asked what the contract value showed. Parks Superintendent Payne said he did not have that information. Ms. Myers said that she needed to see that, and as public they are entitled to see that, because she wants to know that the City got true value on that. She asked how much money was spent taking the trees down. Mayor Dennis said it was part of an overall contract. Ms. Myers said she would like to see the details of that, and she would continue to bring up the matter, until the City can show the figures. She said she was concerned about the budget. Ms. Myers reiterated the item she raised last month, that the Federal Highway Administration requires pedestrian ways be kept open, even when roads are closed, and asked what the path for pedestrians when Lindberg is closed. Mayor Dennis said he would provide that information to Ms. Myers.

► Ms. Drazena Grce read a statement as part of a lawsuit agreement:

Neither Jerry and Patti Weida nor any employee of Weida Apartments was aware of our intent to over-occupy until sued by the City of West Lafayette. We apologize to the Weidas and Weida Apartments for involving them in a lawsuit with the City as a result of our deviant behavior. We ask the Council to make changes to the ordinance holding occupants solely responsible for over-occupancy such as ours. We also ask that the Council make changes to the ordinance that gives the over-occupants a warning and an opportunity to correct the violation. Thank you.

► Mr. Brian Smith (215 South Chauncey), a student at Purdue, expressed concern about the possible closing of Tommy Johnston Park. He stated that he knew this was a Parks Board issue, but he lives next to the park and sees people in the park every day. He urged the Council to issue a statement or encourage the Parks Board to drop the issue and spend some money to update and maintain the park, including replacing lights. He asked to help save the park, and knew the students would greatly appreciate it.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 7:36 p.m.